

New Shoreham Deer Task Force
Tuesday, June 21, 2011
Town Hall, Old Town Road
7:00 p.m.

Present: Maggie Komosinski, Becky Ballard, Pat Doyle, George Mellor, Bill Wilson

Not Present: Mary Sue Record, Paul Deane, Chris Blane, Chris Blansfield

Also present: Judy Tierney from the Block Island Times and Bonny Ryan Assistant Clerk to take the minutes.

Meeting was called to order at 7:00 p.m. by Maggie Komosinski

1. Public Input - None

2. Approval of minutes from May 17, 2011

Minutes were approved as written in a motion by George Mellor and seconded by Becky Ballard. Ayes 5 (Komosinski, Ballard, Doyle, Mellor & Wilson) Nays 0 Absent 4 (Record, Deane Blane & Blansfield)

3. New Business

- **Yale Count – Fish/Kraue/Diuk-Wasser Study –** An email had been received and circulated by Bill Wilson from Mari Diuk-Wasser. It said that Yale had just received the deer count but was waiting for a full data set in order to analyze the results. It also questioned what the Task Force needed the data for. Ms. Diuk-Wasser will be in touch with Mr. Wilson who will draft a request for the data
A motion was made by Pat Doyle and seconded by Maggie Komosinski to have Mr. Wilson draft a request to the Yale team for information regarding deer counts and Lyme's disease
Ayes 5 (Komosinski, Ballard, Doyle, Mellor & Wilson) Nays 0 Absent 4 (Record, Deane Blane & Blansfield)
- **Liability Issues** were not discussed due to the absence of Chris Blane; however there was an update from the town solicitor to First Warden Kim Gaffett which is attached. It was suggested that this memo be forwarded to the conservation groups. Ms. Gaffett also suggested that adequate posting on properties being hunted would be a good idea.
A motion was made by Maggie Komosinski and seconded by George Mellor to thank the First Warden and the Town Solicitor for their work.
Ayes 5 (Komosinski, Ballard, Doyle, Mellor & Wilson) Nays 0 Absent 4 (Record, Deane Blane & Blansfield)
- **Education –** Pat Doyle reported that education was key. Public education should address personal protection, landscape/ vegetation management, methods of herd reduction etc. It should be given out by hotels and rental houses, etc.
- **Open meetings:** This will be tabled for the next meeting.

At 8:00 p.m. two members of the committee left the meeting resulting in no quorum. Meeting was adjourned.

Minutes accepted: 7/19/2011

Bonny Ryan

Attachments 2

Assistant Clerk

Maria,

Thanks for your reply. I'll communicate further after our Tuesday DTF meeting. FYI, i'll be on the island all week except Thursday from about 10:00 a.m. on. Bill

On Jun 17, 2011, at 12:50 PM, Diuk-Wasser, Maria wrote:

> Dear Will,

> Yes, we started collection of ticks on BI, both dragged and on mice. We are also hoping to obtain blood and biopsies from patients to determine whether they are infected with Borrelia and which genotype (this is a new study for us).

>

> We just got a report from deer counts but are waiting for the full dataset in order to analyze the results. As we discussed with you on the phone, most of the data is still in the analysis stage and my understanding is that what's discussed at your meetings is public and often gets published? I guess the discussion we need to have is what exactly you'd need this data for and what could be the best way to communicate. I'll be on the island next week, not sure which days yet, let me know if you'd like to get together.

>

> Peter is looking into the case reports.

>

> Best,

> Maria

>

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> -----Original Message-----

> From: William Wilson [\[mailto:wmawilsonjr@gmail.com\]](mailto:wmawilsonjr@gmail.com)

> Sent: Wednesday, June 15, 2011 1:46 PM

> To: Fish, Durland; Krause, Peter

> Cc: Diuk-Wasser, Maria; Mary Sue Record; Bonny Ryan

> Subject: Counts

>

> Dear Durland and Peter,

> I received an e-mail saying that tick collection on B. I. will again take place this year (it may have begun). That's good news.

> But I haven't heard whether the deer count (promised for April) has been finalized. And, unless I missed something, we still haven't received a Yale-certified count for Lyme, etc., diseases for 2009 or 2010.

> The Block Island Deer Task Force will be meeting Tuesday, June 21, and I'll be asked if I have anything to report.

> Bill

Once Rare, Infection by Tick Bites Spreads

By LAURIE TARKAN

A potentially devastating infection caused by tick bites has gained a foothold in the Lower Hudson Valley and in coastal areas of the Northeast, government researchers have found.

The condition, called babesiosis, is a [malaria-like](#) illness that results from infection with *Babesia microti*, a parasite that lives in red blood cells and is carried by deer [ticks](#). Though far less common than [Lyme disease](#), babesiosis can be fatal, particularly in people with compromised immune systems.

Because there is no widely used screening test for babesiosis, its spread poses a particular threat to the blood supply, scientists said. “We are very worried about it and are doing everything in our power to address this,” said Sanjai Kumar, chief of the laboratory of emerging pathogens at the Food and Drug Administration.

According to a recent report by the Centers for Disease Control and Prevention, there were [six cases of babesiosis in the Lower Hudson Valley in 2001 and 119 cases in 2008](#), a 20-fold increase. In areas where Lyme disease is endemic, like coastal Rhode Island, Massachusetts, Connecticut and Long Island, babesiosis also is becoming very common, said Dr. Peter Krause, senior research scientist at the Yale School of Public Health.

In [one study](#) of residents of Block Island, R.I., Dr. Krause found babesiosis to be just 25 percent less common than Lyme disease. Babesiosis also is spreading slowly into other regions where it did not exist before, like the Upper Midwest, said Dr. Krause.

Many people who are infected with the parasite have no symptoms at all, while others experience mild to moderate [flu-like](#) symptoms that may last for a few days or as long as six months. “But some people get so sick that they wind up hospitalized, put into an intensive care unit, or even dying,” said Dr. Gary Wormser, chief of [infectious diseases](#) at Westchester Medical Center in New York.

In states that track the disease, there are an estimated 1,000 reported cases a year, said Dr. Krause, but he and other experts believe this represents a fraction of the people who are infected. In the Block Island study, researchers tested about 70 percent of the islanders and found that about one quarter of adults and half of children who were infected had no symptoms and were therefore not reported. Even people with mild to moderate symptoms may never see a physician. Even if they do, the condition may not be accurately diagnosed.

Experts fear that many undiagnosed patients may be donating blood. Currently, blood banks do not screen for *Babesia* because the Food and Drug Administration has not licensed a test for this purpose. The only way to screen a patient is by using a questionnaire, which simply asks blood donors if they are infected.

Babesiosis already is the most frequently reported infection transmitted through transfusion in the United States, responsible for at least 12 deaths. In New York City, six transfusion-associated cases of babesiosis were reported in 2009. Infection by this route can be serious: [One study](#) found approximately 30 percent of people who were infected by a transfusion died.

Between 1999 and 2007, several infants in Rhode Island developed babesiosis following blood transfusions. The Rhode Island Blood Center has become the first in the country to use an experimental new test to screen blood for the parasite.

Experts urge blood transfusion patients and their doctors to be aware of symptoms of babesiosis, which can occur up to nine weeks after a transfusion.

The symptoms can be vague (there is no tell-tale rash as there may be with Lyme disease) and include [fever](#), sweats, chills, [headache](#), fatigue, and [muscle aches](#) and pains. In people who also have Lyme disease, doctors might suspect babesiosis if the symptoms are particularly severe or the [antibiotics](#) are not working, said Dr. Krause. A diagnosis can be confirmed through blood testing.

Infants and adults over age 50 are more likely to get moderate to severe symptoms if infected. People at increased risk of complications include patients with compromised immune systems (such as people receiving immunosuppressants), those who've had their spleens removed, and those with lymphoma or [H.I.V.](#) or who are being treated for [cancer](#).

If not caught and treated early, babesiosis can lead to such complications as kidney, lung or [heart failure](#). The infection can be treated with antimicrobial medications, but people with serious complications are less responsive to the drugs.

Why the parasite is spreading and why it's spreading more slowly than Lyme disease are not well understood. One theory is that Babesia may be carried primarily in mice, which don't tend to travel far afield. The bacterium causing Lyme disease, *Borrelia burgdorferi*, can be carried by birds.

Greetings all,

I recently forgot to forward this transmission from the Town Solicitor (Kathy Merolla) regarding our request about state law and deer hunting liability, so sorry.

I'm not a lawyer but, it seems to me that adequately posting and noticing that a property is being actively hunted might protect a property owner from the charge that they "(1) For the willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity after discovering the user's peril;" (see below).

I doubt that this will change the minds of those who are concerned about liability, but it does seem to me that the State law is clearly limiting landowner liability.

Let me know if you want more work from the Town Solicitor on this.

Kim

Begin forwarded message:

From: kamlaw2344@aol.com
Date: June 2, 2011 1:00:00 PM EDT
To: kimgaffett@gmail.com
Subject: Re: TM Contract & etc.

Hi Kim,

~~I will make the changes to the TM contract and email the document to you.~~

As for the hunting issue, that is controlled by Rhode Island's recreational use statute which I have inserted below. That statute limits the liability of landowners who allow recreational uses on their property. The law specifically includes hunting. While the law does limit liability, section 32-6-5 (see below) provides the exceptions. Exception 1 was the basis for the cliffwalk case. In that case, the court determined that the City of Newport could not escape liability under the Recreational Use Law because the city had willfully or maliciously failed to guard or warn against a dangerous condition.

In essence, the Rhode Island Supreme Court stated that the city engaged in a willful or malicious failure to warn or guard against a known danger posed by unstable ground under apparent footpaths leading from the paved public walkway along oceanside cliff, thus invoking the exception to landowner immunity under the Recreational Use Statute. The court also held that the city voluntarily and intentionally failed to guard against the dangerous condition, knowing that there existed a strong likelihood that a visitor to the walkway would suffer serious injury or death, and that the city assumed control of the walkway while fully aware of its threatened stability.

32-6-1. Purpose of chapter

The purpose of this chapter is to encourage owners of land to make land and water areas available to the public for recreational purposes by **limiting their liability to persons entering thereon for those purposes.**

32-6-2. Definitions

As used in this chapter:

- (1) "Charge" means the admission price or fee asked in return for invitation or permission to enter or go upon the land;
- (2) "Land" means land, roads, water, watercourses, private ways and buildings, structures, and machinery or equipment when attached to the realty;
- (3) "Owner" means the possessor of a fee interest, tenant, lessee, occupant, or person in control of the premises, including the state and municipalities;
- (4) "Recreational purposes" includes, but is not limited to, any of the following, or any combination thereof: **hunting**, fishing, swimming, boating, camping, picnicking, hiking, horseback riding, bicycling, pleasure driving, nature study, water skiing, water sports, and viewing or enjoying historical, archaeological, scenic, or scientific sites, and all other recreational purposes contemplated by this chapter; and
- (5) "User" means any person using land for recreational purposes.

32-6-3. Liability of landowner

Except as specifically recognized by or provided in 32- 6-5, an owner of land who either directly or indirectly invites or permits without charge any person to use that property for recreational purposes does not thereby:

- (1) **Extend any assurance that the premises are safe for any purpose;**
- (2) Confer upon that person the legal status of an invitee or licensee to whom a duty of care is owed; nor
- (3) Assume responsibility for or incur liability for any injury to any person or property caused by an act of omission of that person.

32-6-4. Land leased to state

Unless otherwise agreed in writing, the provisions of 32-6-3 and this section shall be deemed applicable to the duties and liability of an owner of land leased to the state or any subdivision or agency thereof or land which the state or any subdivision or agency thereof possesses an easement for recreational purposes.

32-6-5. Limitation on chapter

(a) Nothing in this chapter limits in any way any liability which, but for this chapter, otherwise exists:

- (1) For the willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity after discovering the user's peril; or
- (2) For any injury suffered in any case where the owner of land charges the person or persons who enter or go on the land for the recreational use thereof, except that in the case of land leased to the state or a subdivision thereof, any consideration received by the owner for that lease shall not be deemed a "charge" within the meaning of this section.

(b) When the coastal resources management council designates a right-of-way as part of its designation process as specified in s 46-23-6(E), or when the coastal resources management council stipulates public access as a condition of granting a permit, the landowner automatically will have "limited liability" as defined in this chapter, except as specifically recognized by or provided in this section.

32-6-6. Construction of chapter

Nothing in this chapter shall be construed to:

- (1) Create a duty of care or ground of liability for an injury to persons or property;
- (2) Relieve any person using the land of another for recreational purposes from any obligation which he or she may have in the absence of this chapter to exercise care in his use of that land and in his or her activities thereon, or from the legal consequences of the failure to employ that care; or
- (3) Create a public or prescriptive right or easement running with the land.

Katherine A. Merolla, Esq.,
Merolla & Accetturo
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401-739-2900
401-739-2906 (fax)

-----Original Message-----

From: Kimberley Gaffett <kimgaffett@gmail.com>
To: kamlaw2344 <kamlaw2344@aol.com>
Cc: Nancy Dodge <kpson@aol.com>
Sent: Thu, Jun 2, 2011 11:39 am
Subject: TM Contract & etc.

Kathy,

On another legal matter, in March we (Town Council) authorized - at the request of the Deer Task Force - seeking your legal opinion regarding landowner liability when allowing deer hunting on private property (individual or non-profit owned). I believe that Nancy relayed this request to you, however if not, the Town Council is seeking your comments on this issue.

Some of the questions around this issue are:

- Are there any state laws or DEM hunting regulations that protect or hold harmless landowners who allow hunting"
- If there are no such laws/regulations do you have recommendations as to the development of such regulations or hold harmless agreements?
- What, if any, effect does the "cliff Walk" case in Newport bring to bear on Block Island land owners/hunters etc?

Many Thanks, Kim

